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APPLICATION NO.		ING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,819	13	2/26/2001	Warren S. Barham	N1261-007	4326
6449	7590	03/03/2003			
ROTHWE	LL, FIGG,	ERNST & MAN	EXAMINER		
1425 K STF SUITE 800	•		KUBELIK, ANNE R		
WASHINGTON, DC 20005				ART UNIT	PAPER NUMBER
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				DATE MAILED: 03/03/2003	Ÿ

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Total MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply	,	Application No.	Applicant(s)					
## Deficie Action Summary Examiner			BARHAM, WARREN S.					
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Entensions of time may be available under the provisions of 3°C FR 1.35(a), in or event, however, may a reply be timely filed Entensions of time may be available under the provisions of 3°C FR 1.35(a), in or event, however, may a reply be timely filed Entensions of time may be available under the provision of 3°C FR 1.35(a), in or event, however, may a reply be timely filed Entensions of time specification of timely available to time the mailing date of the communication of timely available to reply within the statutory private within the mailing date of the communication, even if timely filed, may reduce any seamed patent time adjustment. See 3°C FR 1.74(b). Status 1) Responsive to communication(s) filed on								
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Application/Control Number: 10/025,819

Art Unit: 1638

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to a method of producing triploid watermelon fruit, classified in class 800, subclass 260.
- II. Claims 8-23, drawn to a watermelon plants and seeds designated 6741, plant parts, a method of using it to produce hybrid seed, and plants and seeds so produced, classified in class 800, subclass 308.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process of invention I can be practiced with other diploid short vine pollinator watermelon plants and the product of invention II can be used in other methods, such as producing hybrid (diploid) watermelon seed.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, fields of search, and classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Art Unit: 1638

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne R. Kubelik, whose telephone number is (703) 308-5059. The examiner can normally be reached Monday through Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 308-0196.

Anne R. Kubelik, Ph.D. February 10, 2003

Jano Milela S